

Utah Commission on Aging

Minutes for June 20, 2006

Commission Member Attendees:	
Allen Christensen	Utah Senate
William Cox	Rich County
TantaLisa Clayton	Utah Legal Services
Michael Deily (for David Sundwall)	Utah Department of Health
Rob Ence	AARP
Lisa-Michele Church	Utah Department of Human Services
Suzette Hudson (for Tani Downing)	Department of Workforce Services
Michael Jones	Utah Department of Financial Institutions
Pat Jones	Utah House of Representatives
Joette Langianese	Rural Health Management
Norma Matheson	Honorary Chair
Kristie McMullin	Southwest Applied Technology College
Shauna O'Neil	Salt Lake County Aging Services
Jason Perry	Governor's Office of Economic Development
Helen Peters (for Leone Harwood)	Utah Department of Transportation
Anne Peterson	Osher Lifelong Learning Institute
JoAnn Seghini	Midvale City
Rev. Robert Shrank	St. John's Lutheran Church
Michael Styles	Utah Office of Ethnic Affairs
Commission Members Unable to Attend:	
Tani Downing	Utah Department of Workforce Services
Leone Harwood	Utah Department of Transportation
Larry Marx	Taylorville Police Department
Sara Sinclair	Sunshine Terrace Foundation
Dr. David Sundwall	Utah Department of Health
Other Attendees:	
Lori Gawf	Utah Office of Public Guardian
Matt Canham	Salt Lake Tribune
Scott Wright	University of Utah
Patricia Berry	University of Utah
Stephen Jardine	Governor's Office of Planning and Budget
Thomas Vaughn	Office of Legislative Research and General Counsel
Alan Ormsby	Utah Department of Aging and Adult Services
Tim Boschert	Utah Department of Transportation
Gary Kelso	Utah Healthcare Association
Angie Welling	Deseret Morning News
Cynthia Boshard	Intermountain Healthcare
Dr. Mark Supiano	University of Utah

The meeting started with comments from Governor Huntsman on the importance of the work of the Utah Commission on Aging. Following the Governor's remarks, Norma Matheson, Chair, called the meeting to order and welcomed all those present. Ms. Matheson recognized Dr. Mark Supiano for receiving a Donald W. Reynolds Foundation grant to help prepare medical students and practicing physicians to care for the growing elderly population.

The meeting will be taped according to the updated Open and Public Meetings Act.

Ann Peterson made a motion to approve the February 17 meeting minutes; the motion was seconded by Bob Schrank and was passed unanimously.

Shauna O'Neil made a motion to approve the April 19 meeting minutes; the motion was seconded by Rob Ence and was passed unanimously.

Pat Jones made a motion to approve the list of Special Committee and Work Group members; the motion was seconded by Bill Cox and was passed unanimously.

AARP Transportation Study

Rob Ence presented the results of a newly completed study, the 2006 Utah Transportation Survey: Aging and Mobility. This study was completed by AARP in collaboration with the Utah Department of Transportation. The survey was conducted by Dan Jones and Associates. A total of 1,210 interviews were completed from February 25, 2006, to March 22, 2006. The study oversampled 200 residents age 85 and over and 200 individuals who reside in predominately rural counties.

Study highlights include:

- Nine in ten Utah residents age 50+ report that they have driven in the past month.
- Among residents age 85 and over, about three in five report that driving is their primary mode of transportation, while nearly two in five indicate they primarily ride share.
- Among the four in five respondents who report that public transportation is available in their community, less than one in ten say they use it at least once per week. Of those who use public transportation, the two most common problems reported are: 1) public transportation does not go to where they need to go (50%) and 2) the amount of time required to use it (44%).

Commission on Aging Update

- Maureen Henry presented on Commission on Aging activities including:
 - The Aging Smart guide to educational opportunities for the aging population and for those who want educational opportunities to enable them to serve the aging population will be drafted by August.
 - The Care Management Plus pilot, which will assess the impact of care management on patients with chronic conditions such as heart failure and diabetes, has five clinics that have to participate; curriculum development is underway and training will begin in September 2006.
 - The Commission's Utah 2030 project, a survey of state departments that will assess department readiness for the increase in Utah's aging population, and will set departmental objectives produce a plan for accommodating the increase in this

population, was introduced at Governor Huntsman's Cabinet meeting in June and will begin in July.

- Gary Kelso presented the status of a Certified Nursing Assistant (CNA) program and a culture change program in residential settings.
 - CNA program
 - Focuses on self-esteem and professionalism for CNAs
 - Being conducted in conjunction with NAGNA, UALA, and UHCA
 - Two facilities are currently participating, 4 more will start shortly
 - Results are very positive
 - Culture change
 - Aimed at a person-directed program of care in residential facilities
 - Thirty facilities are participating in the Well Spring program in conjunction with HealthInsight
 - This program is resulting in increased resident satisfaction, increased quality of care, and increased staff morale
- Rob Ence presented an update on the Financial Security Special committee work. This includes a set of materials aimed at motivating and educating Utahns on the importance of taking ownership of their financial situation and saving more for the future. Rob distributed a draft guide and asked Commission members to provide him feedback on the draft. This work is being done in conjunction with Utah Saves and will be piloted in the coming months.

2007 Legislative Discussion

Maureen Henry introduced the process that was to be used to discuss 2007 legislative items and also introduced meeting facilitator, Cynthia Boshard.

1. Commission on Aging recommendation: Revise the Personal Choice and Living Will Act
 - Maureen Henry provided a summary of the recommendation
 - Questions/comments/responses
 - When would the change take place?
 - How will this be communicated to the general consumer?
 - Can we seek funding for informing the general public?
 - How will this get rolled out?
 - How will we transition from the existing form to a new one?
 - What has been done to include the Utah Bar and lawyers?
 - The next step for this is to take it to the stake holders which includes the Utah Bar and UMA
 - When the original bill was passed the Bar and UMA funded materials for education, could this be done again?
 - If this gets rolled out it would be good to make a concerted effort to work with senior groups to help them understand the new form(s)
 - It would be good to get input from seniors on the proposed form(s)
 - DHS Department of Aging and Adult Services has legal staff that can participate in this process

- Did the committee consider physician assisted suicide?
 - This is not legal in Utah and was not considered.
 - Will the new approach require more physician counseling with patients?
 - Physician involvement should be taking place now and many times does not. The new approach will encourage more physician involvement.
 - Stake holders and physicians need education
 - More data is available now than when the current law was passed in 1986
 - Kristi McMullin made a motion that the Commission support the End-of-Life Work Group's efforts to finalize a draft form, circulate the draft form among other stakeholders, and seek legislative sponsorship to open a bill file; this was seconded by JoAnn Seghini. The motion passed unanimously.
2. Commission on Aging recommendation – Create a transfer on death deed that allows a property owner to deed property to another individual upon the death of the property owner.
- Maureen Henry provided a summary of the recommendation
 - Questions/comments/responses
 - Is this approach simpler than a testamentary trust?
 - Yes
 - This is a real problem today with family members exploiting their parents
 - This is not just a problem with elder abuse, it is also a problem with loving, caring families, because transfer of a title can have unintended consequences
 - Ann Peterson made a motion that the Commission support the work of the Financial Security Special Committee, in collaboration with the Utah State Bar Committee on Law and Aging, to create a Transfer on Death deed in Utah, to seek a legislative sponsor, and to open a bill file; Michael Styles seconded the motion. The motion passed unanimously.
3. Commission on Aging recommendation – Increase the small estate affidavit exemption amount.
- Maureen Henry provided a summary of the recommendation
 - Questions/comments/responses
 - How was \$75,000 arrived at?
 - Consensus of the legal community. Below this seems to be too small for probate, above it seems to benefit from probate.
 - Is this just an update of an existing law?
 - Yes
 - Can the Financial Security Special Committee look at the \$75,000 limit
 - Yes
 - Can an inflation provision be added to the recommendation?
 - Yes
 - Allen Christensen made a motion that the Commission support the work of the Financial Security Special Committee, in collaboration with the Utah State Bar Committee on Law and Aging, to increase the small estate affidavit amount to an inflation adjusted amount which will be reviewed and presented again to the Utah Commission on Aging, to seek a

legislative sponsor, and to open a bill file; Rob Ence seconded the motion. The motion passed unanimously.

4. Commission on Aging recommendation – Add a provision to the civil elder abuse statute to require the court to award attorneys’ fees to an individual who has proven that the defendant has abused or exploited the vulnerable adult under section 62A-3-314 of the Utah Code.
 - Maureen Henry provided a summary of the recommendation
 - Questions/comments/responses
 - It will be best to keep this separate from other bills that award attorneys fees. A “loser pays” bill was run recently, but did not pass
 - The loser pays bill was very broad
 - This recommendation is very specific and narrow
 - Could the word “allow” be used in place of “require”?
 - How typical is “require” in these types of situations?
 - Very typical
 - Is this to help the lawyers or victims?
 - Both, victims generally don’t have funds for legal fees when they have been financially abused
 - The term “allow” leaves the decision up to the discretion of the judge
 - Today there is limited enforcement in elder abuse and exploitation by law enforcement and prosecutors. The attorneys’ fee provision may enable people to bring civil actions.
 - Could the term “reasonable” or a cap be added to the language?
 - Sometimes the perpetrator has the funds to pay the victim back, sometimes not.
 - This change gives the victim the chance to recover fees.
 - “Allow” may have a chance of passing; “require” will be more difficult
 - A motion was made by Allen Christensen to add a provision to the civil elder abuse statute to require the court to award attorneys’ fees to an individual who has proven that the defendant has abused or exploited the vulnerable adult under section 62A-3-314 of the Utah Code; seconded by JoAnn Seghini.
 - A motion to amend the original motion by replacing ‘require’ with ‘allow’ was made by Bob Schrank; seconded by Shauna O’Neil. The motion passed unanimously.
 - A vote was called for on the original motion as amended. The motion passed unanimously.
 - Commission staff was asked to look at other attorney fee laws to determine how often “allow” or “require” is used and report back to the Commission.
5. Commission on Aging recommendation – Renew the Utah Commission on Aging.
 - Questions/comments/responses
 - Lisa-Michele Church stated that she wanted to go on record opposing a request for an extension. She explained that she was involved in the initial lobbying for the creation of the Commission on Aging and made specific promises to legislators that she would not request an extension, that there was no intention to extend, and that it was understood from the beginning that the Commission would

pass off the implementation phase to the Division of Aging and Adult Services (DAAS). The original purpose of the Commission was to highlight unique issues surrounding the boom in senior population and then ask state government to address the issues. She expressed concern that continuation of the Commission would dilute the power of DAAS by creating two parallel tracks. She indicated that DHS and DAAS are prepared to create an implementation plan to transition the work of the Commission to the Aging Board, which could be expanded to take on the role of the Commission. DHS can provide the institutional support to keep the Commission's work going under DAAS.

- Other Commission members and members of the public noted the following:
 - Although the sunset provision was needed at the time of creation, it needs to continue for at least one year because it is bearing fruit and needs additional time.
 - DAAS is the smallest division under DHS, and the functions of DAAS and the Commission are different. More money would be needed for DAAS. Careful thought and analysis is needed before turning this over to DAAS to assure that DAAS can maintain the forward motion that the Commission has started. The Commission should be extended to ensure appropriate handoff.
 - There is need for a balance point. The Commission is doing work that DAAS does not have the capacity to do and that DAAS would need more resources to do effectively.
 - Dramatic change would be required before DAAS could accomplish what the Commission is doing today. The Commission has a broad base, a broad scope, and she we don't want to lose this by moving it to DAAS.
 - The Commission can do things that DAAS can't. How will DAAS ensure that other agencies would keep the Commission's work going; the Commission can assure that its work is continued.
 - Energy and enthusiasm have been created.
 - Agencies sometimes are more political than the Commission has been. Hate to see this go away. We need to take a hard look at delivery of services and the lack of coordination that is present today. The Commission is looking into the duplication of services so that savings can be made.
- A motion was made by Bob Schrank to renew the Commission on Aging for one year, and during that time, to develop a plan to transition the work at the end of the extension to an appropriate government agency; seconded by Allen Christensen.
- Discussion
 - If the Commission is extended the focus needs to be specific. 'Why create a separate entity instead of building up existing organizations? If extended for a year, the focus should be on what needs to occur in order to carry the work into the future.
 - DAAS has not abdicated its leadership to the Commission; DAAS has a narrower objective than the Commission. DAAS is busy solving today's problems, so busy that DAAS doesn't have the ability to look out into 10 and 20 years from now.

DAAS does not have the political capital and power to develop a plan for 10 – 20 years.

- It took 6 months to get the Commission started. Renewal for a year makes sense. The issues are complex, but we should wean ourselves from the Commission.
- Allen Christensen suggested amending the motion to be initially a 6 month period and then changed to an 8 month renewal period. That would take the Commission on Aging until the end of the 2007 legislative session.
- Lisa-Michele Church stated that DAAS could come to the Commission with a detailed implementation plan including what resources would be needed and options on incorporating this responsibility into the board or another work group and then get input from the Commission on the plan.
- Discussion
 - There are strong feelings about the momentum that the Commission has. It is finding out how to work effectively. DAAS is fully taxed now; if it picked up the Commission's responsibilities, the board would have to be reconstituted. An independent group, which can be free thinking, is preferable to an existing government board. We should have ownership of these issues and they could be carried into perpetuity. We are just finding our legs.
 - Right now the DAAS budget is not big enough.
 - The Commission's work could complement the work of DAAS.
- Bob Schrank made a motion to amend the motion to extend the Commission for 8 months instead of a year. Pat Jones seconded. (This was the second motion made to amend the initial motion.) The motion to amend received two opposing votes, Lisa-Michele Church and Shauna O' Neil.
- A vote was called on the amended motion. It was passed unanimously.
- Mayor Seghini voiced a concern about planning for transfer of this responsibility. This will be critical if the Commission is going to disappear.

6. Commission on Aging recommendations to selected departments

- Commission on Aging recommendations to the Department of Human Services
 1. Increase funding for the Alternatives and Aging Waiver programs.
 2. Increase funding for public guardian services for institutionalized mentally ill and residents of Intermediate Care Facilities for the Mentally Retarded.
 3. Consider a one-time request for seed money to fund volunteer transportation network using donated vehicles.
- Commission on Aging recommendation to the Department of Health: Increase Medicaid reimbursement rates for physician office visits.
- Commission on Aging recommendation to the Department of Community and Culture: Fund the Olene Walker Housing Trust Fund
- Discussion
 - The Commission should not be advocating for the DHS budget; this exceeds the role of the Commission. A budget can't be set at this time of the year.

- There are many shortages of budget dollars. The Commission making budget recommendations could backfire on the departments.
- Pat Jones made a motion to have the respective departments consider the Commission recommendations; seconded by Ann Peterson.
- Discussion
 - Maureen Henry explained that the recommendations reflect gaps identified within special committees. These reflect a wide perception that there are issues and gaps. The Commission is not trying to get involved in the department process, rather, assisting in identifying gaps to be considered.
 - The DHS budget system is a closed system. Money that gets added to one area comes out of another.
- A vote was called for on the motion and passed unanimously.

Shauna O'Neil made a motion to adjourn the meeting; seconded by Mayor Seghini. It was passed unanimously.

The meeting was adjourned by Norma Matheson.